



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2015-0480]

Commercial Driver's License Standards: Application for Exemption; CRST Expedited (CRST)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that CRST Expedited (CRST) has applied for an exemption from the requirement in 49 CFR 383.25(a)(1) that requires a commercial learner's permit (CLP) holder to always be accompanied by a commercial driver's license (CDL) holder with the proper CDL class and endorsements seated in the front seat of the vehicle while the CLP holder performs behind-the-wheel training on public roads or highways. CRST requests an exemption to allow CLP holders who have successfully passed the CDL skills test to be able to drive a commercial motor vehicle (CMV) without having a CDL holder seated beside them in the CMV. CRST states that the CDL holder would remain in the CMV at all times while the CLP holder is driving, but not necessarily in the passenger seat. CRST believes that the exemption, if granted, would promote greater productivity and help individuals who have passed the CDL skills test return to actively earning a living faster while achieving a level of safety that is equivalent to or greater than the level of safety provided by complying with the regulations. FMCSA requests public comment on CRST's application for exemption.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER.]

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA-2015-0480 by any of the following methods:

- Federal eRulemaking Portal: www.regulations.gov. Follow the online instructions for submitting comments.
- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery or Courier: West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Fax: 1-202-493-2251
- Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to www.regulations.gov at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line Federal Docket Management System is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as

described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, contact Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202-366-4325. E-mail: MCPSD@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2015-0480), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comments online, go to www.regulations.gov and put the docket number, “FMCSA-2015-0480” in the “Keyword” box, and click “Search.” When the new screen appears, click on “Comment Now!” button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an

individual or on behalf of a third party and then submit. An option to upload a file is provided. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may grant or not grant this application based on your comments.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also

specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Request for Exemption

CRST is one of the nation's largest transportation companies with a fleet of more than 4,500 commercial motor vehicles (CMVs). CRST seeks an exemption from 49 CFR 383.25(a)(1) that would allow CLP holders who have successfully passed a CDL skills test and are thus eligible to receive a CDL, to be able to drive without having a CDL holder seated beside them in the vehicle. CRST, however, indicates in their exemption request that the CDL holder will remain in the vehicle at all times while the CLP holder is driving – just not in the front seat. CRST further requests that the exemption include that the CLP holder could drive for the remainder of the time available on the driver's CLP before expiration, provided the driver can supply evidence of passing the CDL exam to law enforcement personnel. This would allow such a driver to operate more freely and in a way that benefits the driver, the carrier, and the economy as a whole.

CRST states that FMCSA is aware that the trucking industry is facing a shortage of qualified and well-trained drivers to meet the ever-growing shipping demands. CRST believes that 49 CFR 383.25(a)(1) limits its ability to effectively recruit, train, and employ new entrants to the trucking industry. Prior to the implementation of section 383.25(a)(1), States routinely issued temporary CDLs to drivers who passed the CDL skills test. The temporary CDL allowed CRST time to route the new driver to his or her State of domicile to obtain a CDL, and to place the new driver into an on-the-job training position with a driver-trainer. In this scenario, a more experienced driver could mentor and observe the new driver, but was not required to be on duty and in the front seat at all

times. Thus, the new driver could become productive immediately, allowing more freight movement for CRST and compensation for the new driver.

CRST contends that compliance with the CDL rule places them in a very difficult position regarding how they return the CLP holder who has passed his or her skills testing back to their State of domicile to obtain their CDL. According to CRST, the two possible courses of action in this scenario are simple, yet costly: (1) CRST sends CLP holders to their home State by public transportation to obtain the CDL and hopes the drivers return to CRST for employment; and (2) CRST sends CLP holders back to their home State as passengers on one of its trucks. CRST goes on to detail the negative consequences of these courses of action, including: (1) the new drivers would suffer financially because it could be several days or even weeks before they obtain their home State CDL and are available to return to work; (2) safety would also be degraded in these situations because there will be a break in driving for CLP holders who have passed the skills test until they can receive their CDL and return to CRST to start work; (3) increased costs to CRST for public transportation to return CLP holders who have passed the skills test in another State to their home State for issuance of the CDL; (4) further financial loss as CRST would undoubtedly lose control of some CLP holders once they returned home and obtained their CDL – as they may find employment elsewhere, or in a different industry; and (5) if CRST elected to send CLP holders who have passed their skills test home on a CRST truck, CRST must operate at double the cost for half of the productivity.

CRST asserts that the exemption is consistent with FMCSA's comments in the preamble to the final rule published on May 9, 2011, that promulgated 49 CFR 383.25(a).

The Agency said: “FMCSA does not believe that it is safe to permit inexperienced drivers who have not yet passed the CDL skills test to drive unaccompanied.” (76 FR 26861).

The exemption sought would apply only to those CRST drivers who have passed the CDL skills test and hold a CLP.

IV. Method to Ensure an Equivalent or Greater Level of Safety

CRST states that granting this exemption will result in a level of safety that is equal to or greater than the level of safety of the rule without the exemption. The practical result of the exemption is that a CLP holder who has passed a CDL skills test would be able to drive without the requirements of § 383.25(a)(1) and begin immediate and productive on-the-job training. This allows these drivers to continue to use and sharpen their recently acquired driving skills and put them to work – in addition to immediately earning an income – under the mentoring and observation of a more experienced driver until they can return to their home State to be issued a CDL.

In the June 11, 2015, **Federal Register**, FMCSA granted a similar exemption from 49 CFR 383.25(a)(1) to C.R. England, Inc. Under the terms and conditions of that exemption, a CLP holder who has documentation of passing the CDL skills test may drive a CMV for C.R. England without being accompanied by a CDL holder in the front seat. The Agency believed that C.R. England’s request for exemption would achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption (80 FR 33329).

A copy of CRST’s application for exemption is available for review in the docket for this notice.

Issued on: December 18, 2015

Larry W. Minor

Associate Administrator for Policy

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